downregulate IL-12 upon binding CR4.

The Office Action further states that if the claims of Group I are elected, a species election is required, which can be either an election from a list of symptoms characteristic of autoimmune disease (as listed in Item 5), or in the alternative, under Item 6, an election from any one of the following IL-12 induced inflammatory responses of:

A. Autoimmune symptoms and diseases;

B. Inflammatory Bowel Diseases; and

C. Sepsis.

Furthermore, the Office Action requires that if the claims of Group I are elected and species A (Autoimmune symptoms and diseases) of Item 6 is elected, a sub-species election is required from a list of autoimmune diseases under Item 7.

In addition, the Office Action states that if the claims of Group I are elected, a species election is also required to elect either CR3 receptors or CR4 receptors (Item 8) and that, dependent upon which receptor is elected, a further election of a subspecies is required from a list of ligands of either CR3 receptors or CR4 receptors (Items 9 and 10).

Applicants thank Examiner DeCloux for taking the time to discuss this restriction requirement in a telephone conference on November 15, 1999 with applicants' representative, Dr. Mary Miller. In that discussion, it was agreed, with regard to the list of species election

options set forth in Item 6, that inflammatory bowel diseases are autoimmune diseases, as recited in claim 6. Thus, an appropriate species and subspecies election for Group I claims could be autoimmune diseases and inflammatory bowel diseases, respectively.

Furthermore, as discussed over the telephone, it was agreed that the term "antibodies" as it is recited in Items 9 and 10 of the Office Action should apply only to either CR3 or CR4 and not to the remaining ligands listed therein. Thus, for example, an appropriate subspecies election under Item 9. could be either an election of antibodies to CR3, or an election of IC3b, or an election of ICAM-1, etc.

Applicants provisionally elect Group I (claims 1-11), with traverse. With regard to the required election of species and sub-species upon the provisional election of the claims of Group I, applicants provisionally elect autoimmune symptoms and diseases as a species and inflammatory bowel disease as a subspecies, with traverse. Furthermore, applicants provisionally elect CR3 as a species of complement receptors and antibodies to CR3 as a subspecies, with traverse. The following claims of Group I are readable on these provisional species and sub-species elections: 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10.

Applicants also request that the restriction requirement be reconsidered on the basis that the Examiner has not shown the existence of independent and distinct inventions in all the claim groupings or that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

> If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the Examiner must satisfy the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden.

Applicants respectfully assert that the Examiner has not shown that either of these requirements have been met, on the basis that the Examiner has shown neither that all of the claims as grouped are independent and distinct inventions nor that it would be serious burden to search and examine all of the claims together.

Specifically, applicants respectfully contend that there can be no serious burden in examining the claims of Groups II and III together, on the basis that the claims of Groups II and III are both classified in class 435, subclass 7.1. Thus, the subject matter of the claims of both Groups II and III would require searching only a single class and subclass for both groups, which would not constitute a serious burden upon the Examiner. Furthermore, examining all of the claims together would eliminate the necessity of prosecuting multiple, separate, yet intimately related, applications. Thus, this criterion of M.P.E.P. § 803 as set forth above has not been satisfied, because the Examiner has not shown that it would be a serious burden to search and examine all of the claims of this invention together.

For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth by the Examiner would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office (PTO) and further point out that restriction by the Examiner is discretionary (M.P.E.P. § 803.01). Thus, applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

A Request for Extension of Time is filed herewith and the Commissioner is authorized to charge the $110.00 Extension of Time fee and any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to 703/305-3704, ATTN: Examiner A. DeCloux, Group Art Unit 1644, Assistant Commissioner for Patents, Washington, D.C. on the date shown below.

Mary L. Miller — November 15, 1999
Date